

Southwestern Bell

DOCKET FILE COPY ORIGINAL

August 15, 1997

Durward D. Dupre
Vice President
Associate General Counsel

Ms. Chris Jines
Director-Federal Regulatory
SBC Communications Inc.
1401 I Street, N.W., Suite 1100
Washington, D.C. 20005

Dear Chris:

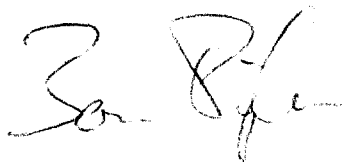
Re: Comments of SBC Communications Inc., CC Docket No. 97-146

Enclosed please find an original and twelve (12) copies of the above-referenced pleading to be filed with the Secretary of the Commission on Monday, August 18, 1997. Also enclosed is a copy of the pleading to be file-stamped and returned to me.

Additional copies of the pleading are attached to be used as the courtesy copies and one is included for your files.

Please call to confirm that the pleading has been filed. Thank you for your assistance.

Very truly yours,



/s/ Durward D. Dupre

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of)	
)	
Hyperion Telecommunications, Inc.)	CCB/CPD No. 96-3
Petition Requesting Forbearance)	
)	
Time Warner Communications)	CCB/CPD No. 96-7
Petition for Forbearance)	
)	
Complete Detariffing for)	
Competitive Access Providers and)	CC Docket No. 97-146
Competitive Local Exchange Carriers)	

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC"), by its attorneys, files these comments in response to the *Notice of Proposed Rulemaking* ("NPRM") herein, which was adopted and released by the Commission on June 19, 1997.

I. INTRODUCTION

In the *Memorandum Opinion and Order and Notice of Proposed Rulemaking* in the captioned matters, the Commission considered petitions that had been filed in 1996 by Hyperion Telecommunications, Inc. ("Hyperion") and by Time Warner Communications ("Time Warner") for forbearance under Section 10 of the Communications Act¹ from tariff filing requirements. The Commission granted those petitions insofar as they sought permissive detariffing for provision of interstate exchange access services by providers other than the incumbent local exchange carrier ("ILEC"). The Commission denied Time Warner's petition to the extent it requested forbearance from tariffing services other than interstate exchange access. In the NPRM, the Commission

¹Codified as 47 U.S.C. § 160.

tentatively concluded that it should establish complete, mandatory detariffing for non-ILECs' provision of interstate exchange access services.

At best, the Commission's NPRM is premature. As the Commission itself explains, the Commission's decision to require mandatory detariffing of domestic, interstate interexchange services is currently before the U.S. District Court of Appeals for the District of Columbia Circuit.² In fact, the Commission's decision has been stayed. The Commission states that the Court's concerns regarding irreparable harm "are not relevant here because parties have the option to file tariffs pending further consideration of complete detariffing in our NPRM."³ Given the pendency of Court action on the issue of mandatory detariffing, it would be premature for the Commission to adopt mandatory detariffing prior to the Court's determination regarding the Commission's authority to do so.

Further, as SBC has pointed out in the proceedings on the Hyperion and Time Warner petitions, as well as in other proceedings,⁴ consistent regulation of all similarly-situated carriers is essential to effective competition. Furthermore, SBC supports, subject to the caveat that all competitors be regulated similarly, permissive detariffing.

II. PERMISSIVELY-FILED TARIFFS SERVE A USEFUL PURPOSE IN ESTABLISHING RATES, TERMS, AND CONDITIONS OF SERVICE.

As several interexchange carriers ("IXCs"), including AT&T and MCI, pointed out in

²MCI Telecommunications Corp. v. FCC, No. 96-1459 (D.C. Cir. Feb. 13, 1997).

³Hyperion Telecommunications, Inc., Petition Requesting Forbearance, CCB/CPD No. 96-3, Time Warner Communications Petition for Forbearance, CCB/CPD No. 96-7, Memorandum Opinion and Order, FCC 97-219, released June 19, 1997 at ¶ 30.

⁴CC Docket No. 96-61, Comments of SBC Communications Inc., filed January 28, 1997, in response to Petitions for Reconsideration.

Petitions for Reconsideration in CC Docket No. 96-61, permissively-filed tariffs provide a mechanism to establish terms and conditions of a business arrangement between a carrier and its customers. In CC Docket No. 96-61, the IXC's were particularly concerned that, without permissively-filed tariffs, they would have no basis to enforce their charges to casual customers with whom they had no formal, pre-existing contractual relationship. Tariffs filed with a regulatory agency function as such a contract, ensuring that customers are bound by the carriers' rates, terms, and conditions of sale.

While competitive access providers do not provide interstate exchange access directly to end user customers, they do provide access services to IXC's with which they may not have formal, pre-existing contractual relationships. As SBC pointed out in CC Docket No. 96-61 in the context of IXC permissive tariff filings, it is difficult to understand how it would be contrary to the public interest to allow providers of interstate exchange access an efficient and useful mechanism, such as permissively-filed tariffs, to communicate the terms and conditions of their service offerings to their customers.

III. CONCLUSION

The Commission should treat all carriers equally with regard to tariff filing requirements. Furthermore, the Commission should allow providers of interstate exchange access services, on a

permissive basis, to file tariffs for such services when such an approach best meets the needs of the individual carrier and its customers.

Respectfully submitted,

SBC COMMUNICATIONS INC.

By: 

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Thomas A. Pajda

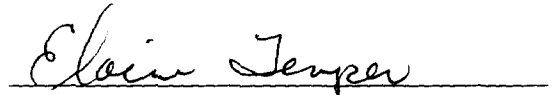
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ATTORNEYS FOR SBC COMMUNICATIONS INC.

August 18, 1997

Certificate of Service

I, Elaine Temper, hereby certify that the comments of SBC Communications, Inc. to CC Docket No. 97-146 has been served this 18th day of August, 1997 to the Parties of Record.

A handwritten signature in cursive script, reading "Elaine Temper", is written over a horizontal line.

Elaine Temper

August 18, 1997

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